

House Bill 2603

Sponsored by Representative RESCHKE (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Restores offense levels for unlawful possession of controlled substance offenses to levels that existed prior to enactment of House Bill 2355 (2017) and Drug Addiction Treatment and Recovery Act of 2020 (Ballot Measure 110 (2020)).

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to controlled substances; creating new provisions; amending ORS 51.050, 137.300, 137.633,
3 153.012, 153.018, 153.019, 153.021, 153.064, 153.992, 161.570, 221.339, 419C.370, 423.478, 423.525,
4 430.383, 430.384, 430.388, 430.389, 430.392, 475.005, 475.235, 475.752, 475.814, 475.824, 475.834,
5 475.854, 475.874, 475.884, 475.894, 475.900 and 670.280; repealing ORS 153.043, 153.062, 293.665,
6 305.231, 419C.460 and 475.237 and section 30, chapter 591, Oregon Laws 2021; and declaring an
7 emergency.

8 **Be It Enacted by the People of the State of Oregon:**

POSSESSION OF CONTROLLED SUBSTANCE OFFENSE LEVELS

11
12 **SECTION 1.** ORS 475.752 is amended to read:

13 475.752. (1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful
14 for any person to manufacture or deliver a controlled substance. Any person who violates this sub-
15 section with respect to:

16 (a) A controlled substance in Schedule I, is guilty of a Class A felony, except as otherwise pro-
17 vided in ORS 475.886 and 475.890.

18 (b) A controlled substance in Schedule II, is guilty of a Class B felony, except as otherwise
19 provided in ORS 475.878, 475.880, 475.882, 475.904 and 475.906.

20 (c) A controlled substance in Schedule III, is guilty of a Class C felony, except as otherwise
21 provided in ORS 475.904 and 475.906.

22 (d) A controlled substance in Schedule IV, is guilty of a Class B misdemeanor.

23 (e) A controlled substance in Schedule V, is guilty of a Class C misdemeanor.

24 (2) Except as authorized in ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful for any
25 person to create or deliver a counterfeit substance. Any person who violates this subsection with
26 respect to:

27 (a) A counterfeit substance in Schedule I, is guilty of a Class A felony.

28 (b) A counterfeit substance in Schedule II, is guilty of a Class B felony.

29 (c) A counterfeit substance in Schedule III, is guilty of a Class C felony.

30 (d) A counterfeit substance in Schedule IV, is guilty of a Class B misdemeanor.

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (e) A counterfeit substance in Schedule V, is guilty of a Class C misdemeanor.

2 (3) It is unlawful for any person knowingly or intentionally to possess a controlled substance
 3 unless the substance was obtained directly from, or pursuant to a valid prescription or order of, a
 4 practitioner while acting in the course of professional practice, or except as otherwise authorized
 5 by ORS 475.005 to 475.285 and 475.752 to 475.980. Any person who violates this subsection with re-
 6 spect to:

7 (a) A controlled substance in Schedule I, is guilty of a Class *[E violation]* **B felony**, except as
 8 otherwise provided in ORS *[475.854, 475.874 and]* 475.894 *[and subsection (7) of this section]*.

9 (b) A controlled substance in Schedule II, is guilty of a *[Class E violation, except as otherwise*
 10 *provided in ORS 475.814, 475.824, 475.834 or 475.884 or subsection (8) of this section]* **Class C**
 11 **felony**.

12 (c) A controlled substance in Schedule III, is guilty of a Class *[E violation]* **A misdemeanor**.

13 (d) A controlled substance in Schedule IV, is guilty of a Class *[E violation]* **C misdemeanor**.

14 (e) A controlled substance in Schedule V, is guilty of a violation.

15 (4) It is an affirmative defense in any prosecution under this section for manufacture, possession
 16 or delivery of the plant of the genus *Lophophora* commonly known as peyote that the peyote is being
 17 used or is intended for use:

18 (a) In connection with the good faith practice of a religious belief;

19 (b) As directly associated with a religious practice; and

20 (c) In a manner that is not dangerous to the health of the user or others who are in the prox-
 21 imity of the user.

22 (5) The affirmative defense created in subsection (4) of this section is not available to any person
 23 who has possessed or delivered the peyote while incarcerated in a correctional facility in this state.

24 (6)(a) Notwithstanding subsection (1) of this section, a person who unlawfully manufactures or
 25 delivers a controlled substance in Schedule IV and who thereby causes death to another person is
 26 guilty of a Class C felony.

27 (b) For purposes of this subsection, causation is established when the controlled substance plays
 28 a substantial role in the death of the other person.

29 *[(7) Notwithstanding subsection (3)(a) of this section:]*

30 *[(a) Unlawful possession of a controlled substance in Schedule I is a Class A misdemeanor if the*
 31 *person possesses:]*

32 *[(A) Forty or more user units of a mixture or substance containing a detectable amount of lysergic*
 33 *acid diethylamide; or]*

34 *[(B) Twelve grams or more of a mixture or substance containing a detectable amount of psilocybin*
 35 *or psilocin.]*

36 *[(b) Unlawful possession of a controlled substance in Schedule I is a Class B felony if:]*

37 *[(A) The possession is a commercial drug offense under ORS 475.900 (1)(b); or]*

38 *[(B) The person possesses a substantial quantity under ORS 475.900 (2)(b).]*

39 *[(8) Notwithstanding subsection (3)(b) of this section, unlawful possession of a controlled substance*
 40 *in Schedule II is a Class C felony if:]*

41 *[(a) The possession is a commercial drug offense under ORS 475.900 (1)(b); or]*

42 *[(b) The person possesses a substantial quantity under ORS 475.900 (2)(b).]*

43 **SECTION 2.** ORS 475.814 is amended to read:

44 475.814. (1) It is unlawful for any person knowingly or intentionally to possess hydrocodone un-
 45 less the hydrocodone was obtained directly from, or pursuant to a valid prescription or order of, a

1 practitioner while acting in the course of professional practice, or except as otherwise authorized
 2 by ORS 475.005 to 475.285 and 475.752 to 475.980.

3 [(2)(a)] (2) Unlawful possession of hydrocodone is a Class [E violation] **A misdemeanor**.

4 [(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of hydrocodone is a
 5 Class A misdemeanor if:]

6 [(A) The possession is a commercial drug offense under ORS 475.900 (1)(b); or]

7 [(B) The person possesses 40 or more pills, tablets, capsules or user units of a mixture or substance
 8 containing a detectable amount of hydrocodone.]

9 **SECTION 3.** ORS 475.824 is amended to read:

10 475.824. (1) It is unlawful for any person knowingly or intentionally to possess methadone unless
 11 the methadone was obtained directly from, or pursuant to a valid prescription or order of, a prac-
 12 titioner while acting in the course of professional practice, or except as otherwise authorized by
 13 ORS 475.005 to 475.285 and 475.752 to 475.980.

14 [(2)(a)] (2) Unlawful possession of methadone is a Class [E violation] **C felony**.

15 [(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of methadone is a Class
 16 A misdemeanor if the person possesses 40 or more user units of a mixture or substance containing a
 17 detectable amount of methadone.]

18 [(c) Notwithstanding paragraphs (a) and (b) of this subsection, unlawful possession of methadone
 19 is a Class C felony if the possession is a commercial drug offense under ORS 475.900 (1)(b).]

20 **SECTION 4.** ORS 475.834 is amended to read:

21 475.834. (1) It is unlawful for any person knowingly or intentionally to possess oxycodone unless
 22 the oxycodone was obtained directly from, or pursuant to a valid prescription or order of, a practi-
 23 tioner while acting in the course of professional practice, or except as otherwise authorized by ORS
 24 475.005 to 475.285 and 475.752 to 475.980.

25 [(2)(a)] (2) Unlawful possession of oxycodone is a Class [E violation] **C felony**.

26 [(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of oxycodone is a Class
 27 A misdemeanor if the person possesses 40 or more pills, tablets, capsules or user units of a mixture
 28 or substance containing a detectable amount of oxycodone.]

29 [(c) Notwithstanding paragraphs (a) and (b) of this subsection, unlawful possession of oxycodone
 30 is a Class C felony if the possession is a commercial drug offense under ORS 475.900 (1)(b).]

31 **SECTION 5.** ORS 475.854 is amended to read:

32 475.854. (1) It is unlawful for any person knowingly or intentionally to possess heroin.

33 [(2)(a)] (2) Unlawful possession of heroin is a Class [E violation] **B felony**.

34 [(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of heroin is a Class A
 35 misdemeanor if the person possesses one gram or more of a mixture or substance containing a detect-
 36 able amount of heroin.]

37 [(c) Notwithstanding paragraphs (a) and (b) of this subsection, unlawful possession of heroin is a
 38 Class B felony if:]

39 [(A) The possession is a commercial drug offense under ORS 475.900 (1)(b); or]

40 [(B) The person possesses a substantial quantity under ORS 475.900 (2)(b).]

41 **SECTION 6.** ORS 475.874 is amended to read:

42 475.874. (1) It is unlawful for any person knowingly or intentionally to possess
 43 3,4-methylenedioxymethamphetamine.

44 [(2)(a)] (2) Unlawful possession of 3,4-methylenedioxymethamphetamine is a Class [E violation]
 45 **B felony**.

1 ***[(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of***
 2 ***3,4-methylenedioxyamphetamine is a Class A misdemeanor if the person possesses one gram or***
 3 ***more or five or more pills, tablets or capsules of a mixture or substance containing a detectable amount***
 4 ***of:]***

5 ***[(A) 3,4-methylenedioxyamphetamine;]***

6 ***[(B) 3,4-methylenedioxyamphetamine; or]***

7 ***[(C) 3,4-methylenedioxy-N-ethylamphetamine.]***

8 ***[(c) Notwithstanding paragraphs (a) and (b) of this subsection, unlawful possession of***
 9 ***3,4-methylenedioxyamphetamine is a Class B felony if:]***

10 ***[(A) The possession is a commercial drug offense under ORS 475.900 (1)(b); or]***

11 ***[(B) The person possesses a substantial quantity under ORS 475.900 (2)(b).]***

12 **SECTION 7.** ORS 475.884 is amended to read:

13 475.884. (1) It is unlawful for any person knowingly or intentionally to possess cocaine unless
 14 the substance was obtained directly from, or pursuant to[,] a valid prescription or order of, a prac-
 15 titioner while acting in the course of professional practice, or except as otherwise authorized by
 16 ORS 475.005 to 475.285 and 475.752 to 475.980.

17 ***[(2)(a)] (2) Unlawful possession of cocaine is a Class [E violation] C felony.***

18 ***[(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of cocaine is a Class***
 19 ***A misdemeanor if the person possesses two grams or more of a mixture or substance containing a de-***
 20 ***tectable amount of cocaine.]***

21 ***[(c) Notwithstanding paragraphs (a) and (b) of this subsection, unlawful possession of cocaine is***
 22 ***a Class C felony if:]***

23 ***[(A) The possession is a commercial drug offense under ORS 475.900 (1)(b); or]***

24 ***[(B) The person possesses a substantial quantity under ORS 475.900 (2)(b).]***

25 **SECTION 8.** ORS 475.894 is amended to read:

26 475.894. (1) It is unlawful for any person knowingly or intentionally to possess methamphetamine
 27 unless the substance was obtained directly from, or pursuant to[,] a valid prescription or order of,
 28 a practitioner while acting in the course of professional practice, or except as otherwise authorized
 29 by ORS 475.005 to 475.285 and 475.752 to 475.980.

30 ***[(2)(a)] (2) Unlawful possession of methamphetamine is a Class [E violation] C felony.***

31 ***[(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of methamphetamine is***
 32 ***a Class A misdemeanor if the person possesses two grams or more of a mixture or substance containing***
 33 ***a detectable amount of methamphetamine.]***

34 ***[(c) Notwithstanding paragraphs (a) and (b) of this subsection, unlawful possession of metham-***
 35 ***phetamine is a Class C felony if:]***

36 ***[(A) The possession is a commercial drug offense under ORS 475.900 (1)(b); or]***

37 ***[(B) The person possesses a substantial quantity under ORS 475.900 (2)(b).]***

38 **SECTION 9.** ORS 475.900 is amended to read:

39 475.900. (1) A violation of ORS 475.752, 475.806 to 475.894, 475.904 or 475.906 shall be classified
 40 as crime category 8 of the sentencing guidelines grid of the Oregon Criminal Justice Commission if:

41 (a) The violation constitutes delivery or manufacture of a controlled substance and involves
 42 substantial quantities of a controlled substance. For purposes of this paragraph, the following
 43 amounts constitute substantial quantities of the following controlled substances:

44 (A) Five grams or more of a mixture or substance containing a detectable amount of heroin;

45 (B) Five grams or more of a mixture or substance containing a detectable amount of fentanyl,

1 or any substituted derivative of fentanyl as defined by the rules of the Oregon Board of Pharmacy;

2 (C) Ten grams or more of a mixture or substance containing a detectable amount of cocaine;

3 (D) Ten grams or more of a mixture or substance containing a detectable amount of metham-
4 phetamine, its salts, isomers or salts of its isomers;

5 (E) Two hundred or more user units of a mixture or substance containing a detectable amount
6 of lysergic acid diethylamide;

7 (F) Sixty grams or more of a mixture or substance containing a detectable amount of psilocybin
8 or psilocin; or

9 (G) Five grams or more or 25 or more pills, tablets or capsules of a mixture or substance con-
10 taining a detectable amount of:

11 (i) 3,4-methylenedioxyamphetamine;

12 (ii) 3,4-methylenedioxymethamphetamine; or

13 (iii) 3,4-methylenedioxy-N-ethylamphetamine.

14 (b) The violation constitutes possession, delivery or manufacture of a controlled substance and
15 the possession, delivery or manufacture is a commercial drug offense. A possession, delivery or
16 manufacture is a commercial drug offense for purposes of this subsection if it is accompanied by at
17 least three of the following factors:

18 (A) The delivery was of heroin, cocaine, methamphetamine, lysergic acid diethylamide,
19 psilocybin or psilocin and was for consideration;

20 (B) The offender was in possession of \$300 or more in cash;

21 (C) The offender was unlawfully in possession of a firearm or other weapon as described in ORS
22 166.270 (2), or the offender used, attempted to use or threatened to use a deadly or dangerous
23 weapon as defined in ORS 161.015, or the offender was in possession of a firearm or other deadly
24 or dangerous weapon as defined in ORS 161.015 for the purpose of using it in connection with a
25 controlled substance offense;

26 (D) The offender was in possession of materials being used for the packaging of controlled sub-
27 stances such as scales, wrapping or foil, other than the material being used to contain the substance
28 that is the subject of the offense;

29 (E) The offender was in possession of drug transaction records or customer lists;

30 (F) The offender was in possession of stolen property;

31 (G) Modification of structures by painting, wiring, plumbing or lighting to facilitate a controlled
32 substance offense;

33 (H) The offender was in possession of manufacturing paraphernalia, including recipes, precursor
34 chemicals, laboratory equipment, lighting, ventilating or power generating equipment;

35 (I) The offender was using public lands for the manufacture of controlled substances;

36 (J) The offender had constructed fortifications or had taken security measures with the potential
37 of injuring persons; or

38 (K) The offender was in possession of controlled substances in an amount greater than:

39 (i) Three grams or more of a mixture or substance containing a detectable amount of heroin;

40 (ii) Three grams or more of a mixture or substance containing a detectable amount of fentanyl,
41 or any substituted derivative of fentanyl as defined by the rules of the Oregon Board of Pharmacy;

42 (iii) Eight grams or more of a mixture or substance containing a detectable amount of cocaine;

43 (iv) Eight grams or more of a mixture or substance containing a detectable amount of metham-
44 phetamine;

45 (v) Twenty or more user units of a mixture or substance containing a detectable amount of

1 lysergic acid diethylamide;

2 (vi) Ten grams or more of a mixture or substance containing a detectable amount of psilocybin
3 or psilocin; or

4 (vii) Four grams or more or 20 or more pills, tablets or capsules of a mixture or substance
5 containing a detectable amount of:

6 (I) 3,4-methylenedioxyamphetamine;

7 (II) 3,4-methylenedioxymethamphetamine; or

8 (III) 3,4-methylenedioxy-N-ethylamphetamine.

9 (c) The violation constitutes a violation of ORS 475.848, 475.852, 475.868, 475.872, 475.878,
10 475.882, 475.888, 475.892 or 475.904.

11 (d) The violation constitutes manufacturing methamphetamine and the manufacturing consists
12 of:

13 (A) A chemical reaction involving one or more precursor substances for the purpose of manu-
14 facturing methamphetamine; or

15 (B) Grinding, soaking or otherwise breaking down a precursor substance for the purpose of
16 manufacturing methamphetamine.

17 (e) The violation constitutes a violation of ORS 475.906 (1) or (2) that is not described in ORS
18 475.907.

19 (2) A violation of ORS 475.752 or 475.806 to 475.894 shall be classified as crime category 6 of
20 the sentencing guidelines grid of the Oregon Criminal Justice Commission if:

21 (a) The violation constitutes delivery of heroin, cocaine, methamphetamine or
22 3,4-methylenedioxyamphetamine, 3,4-methylenedioxymethamphetamine or
23 3,4-methylenedioxy-N-ethylamphetamine and is for consideration.

24 (b) The violation constitutes possession of substantial quantities of a controlled substance. For
25 purposes of this paragraph, the following amounts constitute substantial quantities of the following
26 controlled substances:

27 (A) Five grams or more of a mixture or substance containing a detectable amount of heroin;

28 (B) Five grams or more of a mixture or substance containing a detectable amount of fentanyl,
29 or any substituted derivative of fentanyl as defined by the rules of the Oregon Board of Pharmacy;

30 (C) Ten grams or more of a mixture or substance containing a detectable amount of cocaine;

31 (D) Ten grams or more of a mixture or substance containing a detectable amount of metham-
32 phetamine;

33 (E) Two hundred or more user units of a mixture or substance containing a detectable amount
34 of lysergic acid diethylamide;

35 (F) Sixty grams or more of a mixture or substance containing a detectable amount of psilocybin
36 or psilocin; or

37 (G) Five grams or more or 25 or more pills, tablets or capsules of a mixture or substance con-
38 taining a detectable amount of:

39 (i) 3,4-methylenedioxyamphetamine;

40 (ii) 3,4-methylenedioxymethamphetamine; or

41 (iii) 3,4-methylenedioxy-N-ethylamphetamine.

42 (3) Any felony violation of ORS 475.752 or 475.806 to 475.894 not contained in subsection (1) or
43 (2) of this section shall be classified as:

44 (a) Crime category 4 of the sentencing guidelines grid of the Oregon Criminal Justice Commis-
45 sion if the violation involves delivery or manufacture of a controlled substance[.]; **or**

1 (c) Allocations to the Department of Corrections for the purpose of planning, operating and
 2 maintaining county juvenile and adult corrections programs and facilities and drug and alcohol
 3 programs.

4 (d) Allocations to the Oregon Health Authority for the purpose of grants under ORS 430.345 for
 5 the establishment, operation and maintenance of alcohol and drug abuse prevention, early inter-
 6 vention and treatment services provided through a county.

7 (e) Allocations to the Oregon State Police for the purpose of the enforcement of the laws relat-
 8 ing to driving under the influence of intoxicants.

9 (f) Allocations to the Arrest and Return Account established under ORS 133.865.

10 (g) Allocations to the Intoxicated Driver Program Fund established under ORS 813.270.

11 (h) Allocations to the State Court Technology Fund established under ORS 1.012.

12 *[(4) Notwithstanding subsections (2) and (3) of this section, the Legislative Assembly shall allocate*
 13 *all moneys deposited into the Criminal Fine Account as payment of fines on Class E violations to the*
 14 *Drug Treatment and Recovery Services Fund established under ORS 430.384.]*

15 [(5)] (4) It is the intent of the Legislative Assembly that allocations from the Criminal Fine
 16 Account under subsection (3) of this section be consistent with historical funding of the entities,
 17 programs and accounts listed in subsection (3) of this section from monetary obligations imposed in
 18 criminal proceedings. Amounts that are allocated under subsection (3)(c) of this section shall be
 19 distributed to counties based on the amounts that were transferred to counties by circuit courts
 20 during the 2009-2011 biennium under the provisions of ORS 137.308, as in effect January 1, 2011.

21 [(6)] (5) Moneys in the Criminal Fine Account may not be allocated for the payment of debt
 22 service obligations.

23 [(7)] (6) The Department of Revenue shall deposit in the General Fund all moneys remaining in
 24 the Criminal Fine Account after the distributions listed in subsections (2)[,] **and** (3) [*and* (4)] of this
 25 section have been made.

26 [(8)] (7) The Department of Revenue shall establish by rule a process for distributing moneys in
 27 the Criminal Fine Account. The department may not distribute more than one-eighth of the total
 28 biennial allocation to an entity during a calendar quarter.

29 **SECTION 12.** ORS 137.633 is amended to read:

30 137.633. (1) A person convicted of a felony[, *a designated drug-related misdemeanor*] or a desig-
 31 nated person misdemeanor and sentenced to probation, to post-prison supervision or to the legal and
 32 physical custody of the Department of Corrections or the supervisory authority under ORS 137.124
 33 (2) is eligible for a reduction in the period of probation or post-prison supervision for complying with
 34 terms of probation or post-prison supervision, including demonstrating a commitment to the payment
 35 of restitution to the extent the person is able to pay, and participation in recidivism reduction pro-
 36 grams.

37 (2) The maximum reduction under this section may not exceed 50 percent of the period of pro-
 38 bation or post-prison supervision imposed.

39 (3) A reduction under this section may not be used to shorten the period of probation or post-
 40 prison supervision to less than six months.

41 (4) A person serving a sentence described as follows is not eligible for a reduction in the term
 42 of supervision under this section:

43 (a) A sentence for a crime described in ORS 163.095, 163.107, 163.115, 163.118, 163.125, 163.149,
 44 163.185, 163.225, 163.235, 163.365, 163.375, 163.395, 163.405, 163.408, 163.411, 163.427, 163.670, 164.325,
 45 164.415 or 167.017;

1 (b) A sentence for attempt or conspiracy to commit a crime described in ORS 163.095, 163.107
 2 or 163.115;

3 (c) A sentence for a crime committed prior to November 1, 1989;

4 (d) A sentence imposed under the provisions of ORS 161.610;

5 (e) A sentence imposed under the provisions of ORS 161.725 and 161.735;

6 (f) A sentence imposed under the provisions of ORS 137.635;

7 (g) A sentence imposed under the provisions of ORS 137.690, 164.061, 475.907, 475.925, 475.930
 8 or 813.011; or

9 (h) A term of supervision subject to ORS 144.103.

10 (5)(a) The Department of Corrections shall adopt rules to carry out the provisions of this sec-
 11 tion.

12 (b) The rules adopted under this subsection shall include but are not limited to:

13 (A) Rules creating processes for early and ongoing notification of eligibility for an earned re-
 14 duction in supervision under this section to persons on supervision; and

15 (B) Rules establishing consistent standards for determining when a person on supervision is in
 16 compliance with the requirements for, and has succeeded in, earning a reduction in supervision un-
 17 der this section.

18 (c) The supervisory authority shall comply with the rules adopted under this subsection.

19 (6) As used in this section[.],

20 [(a) “Designated drug-related misdemeanor” has the meaning given that term in ORS 423.478.]

21 [(b)] “designated person misdemeanor” has the meaning given that term in ORS 423.478.

22 **SECTION 13.** ORS 153.012 is amended to read:

23 153.012. Violations are classified for the purpose of sentencing into the following categories:

24 (1) Class A violations.

25 (2) Class B violations.

26 (3) Class C violations.

27 (4) Class D violations.

28 [(5) Class E violations.]

29 [(6)] (5) Unclassified violations as described in ORS 153.015.

30 [(7)] (6) Specific fine violations as described in ORS 153.015.

31 **SECTION 14.** ORS 153.018 is amended to read:

32 153.018. (1) The penalty for committing a violation is a fine. The law creating a violation may
 33 impose other penalties in addition to a fine but may not impose a term of imprisonment.

34 (2) Except as otherwise provided by law, the maximum fine for a violation committed by an in-
 35 dividual is:

36 (a) \$2,000 for a Class A violation.

37 (b) \$1,000 for a Class B violation.

38 (c) \$500 for a Class C violation.

39 (d) \$250 for a Class D violation.

40 [(e) \$100 for a Class E violation.]

41 [(f)] (e) \$2,000 for a specific fine violation, or the maximum amount otherwise established by law
 42 for the specific fine violation.

43 (3) If a special corporate fine is specified in the law creating the violation, the sentence to pay
 44 a fine shall be governed by the law creating the violation. Except as otherwise provided by law, if
 45 a special corporate fine is not specified in the law creating the violation, the maximum fine for a

1 violation committed by a corporation is:

- 2 (a) \$4,000 for a Class A violation.
- 3 (b) \$2,000 for a Class B violation.
- 4 (c) \$1,000 for a Class C violation.
- 5 (d) \$500 for a Class D violation.

6 **SECTION 15.** ORS 153.019 is amended to read:

7 153.019. (1) Except as provided in ORS 153.020, [153.062 and 430.391,] the presumptive fines for
8 violations are:

- 9 (a) \$440 for a Class A violation.
- 10 (b) \$265 for a Class B violation.
- 11 (c) \$165 for a Class C violation.
- 12 (d) \$115 for a Class D violation.
- 13 [(e) \$100 for a Class E violation.]

14 (2) The presumptive fine for a specific fine violation is:

- 15 (a) The amount specified by statute as the presumptive fine for the violation; or
- 16 (b) An amount equal to the greater of 20 percent of the maximum fine prescribed for the vio-
17 lation, or the minimum fine prescribed by statute for the violation.

18 (3) Any surcharge imposed under ORS 1.188 shall be added to and made a part of the
19 presumptive fine.

20 **SECTION 16.** ORS 153.021, as amended by section 1, chapter 68, Oregon Laws 2022, is amended
21 to read:

22 153.021. (1) Unless a specific minimum fine is prescribed for a violation, and except as otherwise
23 provided by law, the minimum fine a court shall impose for a violation that is subject to the
24 presumptive fines established by ORS 153.019 (1) or 153.020 are as follows:

- 25 (a) \$225 for a Class A violation.
- 26 (b) \$135 for a Class B violation.
- 27 (c) \$85 for a Class C violation.
- 28 (d) \$65 for a Class D violation.
- 29 [(e) \$45 for a Class E violation.]

30 (2) Notwithstanding subsection (1) of this section, a court may waive payment of the minimum
31 fine described in this section, in whole or in part, if the court determines that requiring payment
32 of the minimum fine would be inconsistent with justice in the case. In making its determination
33 under this subsection, the court shall consider:

- 34 (a) The financial resources of the defendant and the burden that payment of the minimum fine
35 would impose, with due regard to the other obligations of the defendant; and
- 36 (b) The extent to which that burden could be alleviated by allowing the defendant to pay the
37 fine in installments or subject to other conditions set by the court.

38 (3) This section does not affect the manner in which a court imposes or reduces monetary obli-
39 gations other than fines.

40 (4) The Department of Revenue or Secretary of State may audit any court to determine whether
41 the court is complying with the requirements of this section. In addition, the Department of Revenue
42 or Secretary of State may audit any court to determine whether the court is complying with the
43 requirements of ORS 137.145 to 137.159 and 153.640 to 153.680. The Department of Revenue or Sec-
44 retary of State may file an action under ORS 34.105 to 34.240 to enforce the requirements of this
45 section and of ORS 137.145 to 137.159 and 153.640 to 153.680.

SECTION 17. ORS 153.064 is amended to read:

153.064. (1) Except as provided in subsection (2) of this section, a warrant for arrest may be issued against a person who fails to make a first appearance on a citation for a violation, or fails to appear at any other subsequent time set for trial or other appearance, only if the person is charged with failure to appear in a violation proceeding under ORS 153.992.

(2) If a person fails to make a first appearance on a citation for a violation [*other than a Class E violation*], or fails to appear at any other subsequent time set for trial or other appearance on a violation [*other than a Class E violation*], the court may issue an order that requires the defendant to appear and show cause why the defendant should not be held in contempt. The show cause order may be mailed to the defendant by certified mail, return receipt requested. If service cannot be accomplished by mail, the defendant must be personally served. If the defendant is served and fails to appear at the time specified in the show cause order, the court may issue an arrest warrant for the defendant for the purpose of bringing the defendant before the court.

SECTION 18. ORS 153.992 is amended to read:

153.992. (1) A person commits the offense of failure to appear in a violation proceeding if the person has been served with a citation issued under this chapter for a violation [*other than a Class E violation*] and the person knowingly fails to do any of the following:

- (a) Make a first appearance in the manner required by ORS 153.061 within the time allowed.
- (b) Make appearance at the time set for trial in the violation proceeding.
- (c) Appear at any other time required by the court or by law.

(2) Failure to appear on a violation citation is a Class A misdemeanor.

SECTION 19. ORS 161.570 is amended to read:

161.570. (1) As used in this section, “nonperson felony” has the meaning given that term in the rules of the Oregon Criminal Justice Commission.

(2) A district attorney may elect to treat a Class C nonperson felony or a violation of ORS 475.752 [(7)(b)] (3)(a), 475.854 [(2)(c)] or 475.874 [(2)(c)] as a Class A misdemeanor. The election must be made by the district attorney orally or in writing at the time of the first appearance of the defendant. If a district attorney elects to treat a Class C felony or a violation of ORS 475.752 [(7)(b)] (3)(a), 475.854 [(2)(c)] or 475.874 [(2)(c)] as a Class A misdemeanor under this subsection, the court shall amend the accusatory instrument to reflect the charged offense as a Class A misdemeanor.

(3) If, at some time after the first appearance of a defendant charged with a Class C nonperson felony or a violation of ORS 475.752 [(7)(b)] (3)(a), 475.854 [(2)(c)] or 475.874 [(2)(c)], the district attorney and the defendant agree to treat the charged offense as a Class A misdemeanor, the court may allow the offense to be treated as a Class A misdemeanor by stipulation of the parties.

(4) If a Class C felony or a violation of ORS 475.752 [(7)(b)] (3)(a), 475.854 [(2)(c)] or 475.874 [(2)(c)] is treated as a Class A misdemeanor under this section, the court shall clearly denominate the offense as a Class A misdemeanor in any judgment entered in the matter.

(5) If no election or stipulation is made under this section, the case proceeds as a felony.

(6) Before a district attorney may make an election under subsection (2) of this section, the district attorney shall adopt written guidelines for determining when and under what circumstances the election may be made. The district attorney shall apply the guidelines uniformly.

(7) Notwithstanding ORS 161.635, the fine that a court may impose upon conviction of a misdemeanor under this section may not:

- (a) Be less than the minimum fine established by ORS 137.286 for a felony; or
- (b) Exceed the amount provided in ORS 161.625 for the class of felony receiving Class A

1 misdemeanor treatment.

2 **SECTION 20.** ORS 221.339 is amended to read:

3 221.339. (1) A municipal court has concurrent jurisdiction with circuit courts and justice courts
4 over all violations committed or triable in the city where the court is located.

5 (2) Except as provided in subsections (3) and (4) of this section, municipal courts have concur-
6 rent jurisdiction with circuit courts and justice courts over misdemeanors committed or triable in
7 the city. Municipal courts may exercise the jurisdiction conveyed by this section without a charter
8 provision or ordinance authorizing that exercise.

9 (3) Municipal courts have no jurisdiction over felonies[, *designated drug-related misdemeanors*
10 *as defined in ORS 423.478 or Class E violations*].

11 (4) A city may limit the exercise of jurisdiction over misdemeanors by a municipal court under
12 this section by the adoption of a charter provision or ordinance, except that municipal courts must
13 retain concurrent jurisdiction with circuit courts over:

14 (a) Misdemeanors created by the city's own charter or by ordinances adopted by the city, as
15 provided in ORS 3.132; and

16 (b) Traffic crimes as defined by ORS 801.545.

17 (5) Subject to the powers and duties of the Attorney General under ORS 180.060, the city at-
18 torney has authority to prosecute a violation of any offense created by statute that is subject to the
19 jurisdiction of a municipal court, including any appeal, if the offense is committed or triable in the
20 city. The prosecution shall be in the name of the state. The city attorney shall have all powers of
21 a district attorney in prosecutions under this subsection.

22 **SECTION 21.** ORS 419C.370 is amended to read:

23 419C.370. (1) The juvenile court may enter an order directing that all cases involving:

24 (a) Violation of a law or ordinance relating to the use or operation of a motor vehicle, boating
25 laws or game laws be waived to criminal or municipal court;

26 (b) An offense classified as a violation [*other than a Class E violation*] under the laws of this
27 state or a political subdivision of this state be waived to municipal court if the municipal court has
28 agreed to accept jurisdiction; and

29 (c) A misdemeanor that entails theft, destruction, tampering with or vandalism of property be
30 waived to municipal court if the municipal court has agreed to accept jurisdiction.

31 (2) Cases waived under subsection (1) of this section are subject to the following:

32 (a) That the criminal or municipal court prior to hearing a case, other than a case involving a
33 parking violation, in which the defendant is or appears to be under 18 years of age notify the juve-
34 nile court of that fact; and

35 (b) That the juvenile court may direct that any such case be waived to the juvenile court for
36 further proceedings.

37 (3)(a) When a person who has been waived under subsection (1)(c) of this section is convicted
38 of a property offense, the municipal court may impose any sanction authorized for the offense except
39 for incarceration. The municipal court shall notify the juvenile court of the disposition of the case.

40 (b) When a person has been waived under subsection (1) of this section and fails to appear as
41 summoned or is placed on probation and is alleged to have violated a condition of the probation, the
42 juvenile court may recall the case to the juvenile court for further proceedings. When a person has
43 been returned to juvenile court under this paragraph, the juvenile court may proceed as though the
44 person had failed to appear as summoned to the juvenile court or had violated a juvenile court
45 probation order under ORS 419C.446.

1 (4) Records of cases waived under subsection (1)(c) of this section are juvenile records for pur-
 2 poses of expunction under ORS 419A.260 to 419A.271.

3 **SECTION 22.** ORS 423.478 is amended to read:

4 423.478. (1) The Department of Corrections shall:

5 (a) Operate prisons for offenders sentenced to terms of incarceration for more than 12 months;

6 (b) Provide central information and data services sufficient to:

7 (A) Allow tracking of offenders; and

8 (B) Permit analysis of correlations between sanctions, supervision, services and programs, and
 9 future criminal conduct; and

10 (c) Provide interstate compact administration and jail inspections.

11 (2) Subject to ORS 423.483, each county, in partnership with the department, shall assume re-
 12 sponsibility for community-based supervision, sanctions and services for offenders convicted of
 13 felonies[, *designated drug-related misdemeanors*] or designated person misdemeanors who are:

14 (a) On parole;

15 (b) On probation;

16 (c) On post-prison supervision;

17 (d) Sentenced, on or after January 1, 1997, to 12 months or less incarceration;

18 (e) Sanctioned, on or after January 1, 1997, by a court or the State Board of Parole and Post-
 19 Prison Supervision to 12 months or less incarceration for violation of a condition of parole, pro-
 20 bation or post-prison supervision; or

21 (f) On conditional release under ORS 420A.206.

22 (3) Notwithstanding the fact that the court has sentenced a person to a term of incarceration,
 23 when an offender is committed to the custody of the supervisory authority of a county under ORS
 24 137.124 (2) or (4), the supervisory authority may execute the sentence by imposing sanctions other
 25 than incarceration if deemed appropriate by the supervisory authority. If the supervisory authority
 26 releases a person from custody under this subsection and the person is required to report as a sex
 27 offender under ORS 163A.010, the supervisory authority, as a condition of release, shall order the
 28 person to report to the Department of State Police, a city police department or a county sheriff's
 29 office or to the supervising agency, if any:

30 (a) When the person is released;

31 (b) Within 10 days of a change of residence;

32 (c) Once each year within 10 days of the person's birth date;

33 (d) Within 10 days of the first day the person works at, carries on a vocation at or attends an
 34 institution of higher education; and

35 (e) Within 10 days of a change in work, vocation or attendance status at an institution of higher
 36 education.

37 (4) As used in this section:

38 (a) "Attends," "institution of higher education," "works" and "carries on a vocation" have the
 39 meanings given those terms in ORS 163A.005.

40 [(b) "*Designated drug-related misdemeanor*" means:]

41 [(A) *Unlawful possession of methadone under ORS 475.824 (2)(b);*]

42 [(B) *Unlawful possession of oxycodone under ORS 475.834 (2)(b);*]

43 [(C) *Unlawful possession of heroin under ORS 475.854 (2)(b);*]

44 [(D) *Unlawful possession of 3,4-methylenedioxymethamphetamine under ORS 475.874 (2)(b);*]

45 [(E) *Unlawful possession of cocaine under ORS 475.884 (2)(b); or*]

1 *[(F) Unlawful possession of methamphetamine under ORS 475.894 (2)(b).]*

2 *[(c)]* (b) “Designated person misdemeanor” means:

3 (A) Assault in the fourth degree constituting domestic violence if the judgment document is as
4 described in ORS 163.160 (4);

5 (B) Menacing constituting domestic violence if the judgment document is as described in ORS
6 163.190 (3); or

7 (C) Sexual abuse in the third degree under ORS 163.415.

8 **SECTION 23.** ORS 423.525 is amended to read:

9 423.525. (1) A county, group of counties or intergovernmental corrections entity shall apply to
10 the Director of the Department of Corrections in a manner and form prescribed by the director for
11 funding made available under ORS 423.500 to 423.560. The application shall include a community
12 corrections plan. The Department of Corrections shall provide consultation and technical assistance
13 to counties to aid in the development and implementation of community corrections plans.

14 (2)(a) From July 1, 1995, until June 30, 1999, a county, group of counties or intergovernmental
15 corrections entity may make application requesting funding for the construction, acquisition, ex-
16 pansion or remodeling of correctional facilities to serve the county, group of counties or intergov-
17 ernmental corrections entity. The department shall review the application for funding of
18 correctional facilities in accordance with criteria that consider design, cost, capacity, need, operat-
19 ing efficiency and viability based on the county’s, group of counties’ or intergovernmental cor-
20 rections entity’s ability to provide for ongoing operations.

21 (b)(A) If the application is approved, the department shall present the application with a request
22 to finance the facility with financing agreements to the State Treasurer and the Director of the
23 Oregon Department of Administrative Services. Except as otherwise provided in subparagraph (B)
24 of this paragraph, upon approval of the request by the State Treasurer and the Director of the
25 Oregon Department of Administrative Services, the facility may be financed with financing agree-
26 ments, and certificates of participation issued pursuant thereto, as provided in ORS 283.085 to
27 283.092. All decisions approving or denying applications and requests for financing under this sec-
28 tion are final. No such decision is subject to judicial review of any kind.

29 (B) If requests to finance county correctional facility projects are submitted after February 22,
30 1996, and the requests have not been approved by the department on the date a session of the
31 Legislative Assembly convenes, the requests are also subject to the approval of the Legislative As-
32 sembly.

33 (c) After approval but prior to the solicitation of bids or proposals for the construction of a
34 project, the county, group of counties or intergovernmental corrections entity and the department
35 shall enter into a written agreement that determines the procedures, and the parties responsible, for
36 the awarding of contracts and the administration of the construction project for the approved
37 correctional facility. If the parties are unable to agree on the terms of the written agreement, the
38 Governor shall decide the terms of the agreement. The Governor’s decision is final.

39 (d) After approval of a construction project, the administration of the project shall be conducted
40 as provided in the agreement required by paragraph (c) of this subsection. The agreement must re-
41 quire at a minimum that the county, group of counties or intergovernmental corrections entity shall
42 submit to the department any change order or alteration of the design of the project that, singly or
43 in the aggregate, reduces the capacity of the correctional facility or materially changes the services
44 or functions of the project. The change order or alteration is not effective until approved by the
45 department. In reviewing the change order or alteration, the department shall consider whether the

1 implementation of the change order or alteration will have any material adverse impact on the
2 parties to any financing agreements or the holders of any certificates of participation issued to fund
3 county correctional facilities under this section. In making its decision, the department may rely on
4 the opinions of the Department of Justice, bond counsel or professional financial advisers.

5 (3) Notwithstanding ORS 283.085, for purposes of this section, "financing agreement" means a
6 lease purchase agreement, an installment sale agreement, a loan agreement or any other agreement
7 to finance a correctional facility described in this section, or to refinance a previously executed fi-
8 nancing agreement for the financing of a correctional facility. The state is not required to own or
9 operate a correctional facility in order to finance it under ORS 283.085 to 283.092 and this section.
10 The state, an intergovernmental corrections entity, county or group of counties may enter into any
11 agreements, including, but not limited to, leases and subleases, that are reasonably necessary or
12 generally accepted by the financial community for purposes of acquiring or securing financing as
13 authorized by this section. In financing county correctional facilities under this section, "property
14 rights" as used in ORS 283.085 includes leasehold mortgages of the state's rights under leases of
15 correctional facilities from counties.

16 (4) Notwithstanding any other provision of state law, county charter or ordinance, a county may
17 convey or lease to the State of Oregon, acting by and through the Department of Corrections, title
18 to interests in, or a lease of, any real property, facilities or personal property owned by the county
19 for the purpose of financing the construction, acquisition, expansion or remodeling of a correctional
20 facility. Upon the payment of all principal and interest on, or upon any other satisfaction of, the
21 financing agreement used to finance the construction, acquisition, expansion or remodeling of a
22 correctional facility, the state shall reconvey its interest in, or terminate and surrender its leasehold
23 of, the property or facilities, including the financed construction, acquisition, expansion or remod-
24 eling, to the county. In addition to any authority granted by ORS 283.089, for the purposes of ob-
25 taining financing, the state may enter into agreements under which the state may grant to trustees
26 or lenders leases, subleases and other security interests in county property conveyed or leased to
27 the state under this subsection and in the property or facilities financed by financing agreements.

28 (5) In connection with the financing of correctional facilities, the Director of the Oregon De-
29 partment of Administrative Services may bill the Department of Corrections, and the Department
30 of Corrections shall pay the amounts billed, in the same manner as provided in ORS 283.089. As
31 required by ORS 283.091, the Department of Corrections and the Oregon Department of Adminis-
32 trative Services shall include in the Governor's budget all amounts that will be due in each fiscal
33 period under financing agreements for correctional facilities. Amounts payable by the state under
34 a financing agreement for the construction, acquisition, expansion or remodeling of a correctional
35 facility are limited to available funds as defined in ORS 283.085, and no lender, trustee, certificate
36 holder or county has any claim or recourse against any funds of the state other than available funds.

37 (6) The director shall adopt rules that may be necessary for the administration, evaluation and
38 implementation of ORS 423.500 to 423.560. The standards shall be sufficiently flexible to foster the
39 development of new and improved supervision or rehabilitative practices and maximize local control.

40 (7) When a county assumes responsibility under ORS 423.500 to 423.560 for correctional services
41 previously provided by the department, the county and the department shall enter into an inter-
42 governmental agreement that includes a local community corrections plan consisting of program
43 descriptions, budget allocation, performance objectives and methods of evaluating each correctional
44 service to be provided by the county. The performance objectives must include in dominant part
45 reducing future criminal conduct. The methods of evaluating services must include, to the extent

1 of available information systems resources, the collection and analysis of data sufficient to deter-
 2 mine the apparent effect of the services on future criminal conduct.

3 (8) All community corrections plans shall comply with rules adopted pursuant to ORS 423.500
 4 to 423.560, and shall include but need not be limited to an outline of the basic structure and the
 5 supervision, services and local sanctions to be applied to offenders convicted of felonies[, *designated*
 6 *drug-related misdemeanors*] and designated person misdemeanors who are:

7 (a) On parole;

8 (b) On probation;

9 (c) On post-prison supervision;

10 (d) Sentenced, on or after January 1, 1997, to 12 months or less incarceration;

11 (e) Sanctioned, on or after January 1, 1997, by a court or the State Board of Parole and Post-
 12 Prison Supervision to 12 months or less incarceration for a violation of a condition of parole, pro-
 13 bation or post-prison supervision; and

14 (f) On conditional release under ORS 420A.206.

15 (9) All community corrections plans shall designate a community corrections manager of the
 16 county or counties and shall provide that the administration of community corrections under ORS
 17 423.500 to 423.560 shall be under such manager.

18 (10) No amendment to or modification of a county-approved community corrections plan shall
 19 be placed in effect without prior notice to the director for purposes of statewide data collection and
 20 reporting.

21 (11) The obligation of the state to provide funding and the scheduling for providing funding of
 22 a project approved under this section is dependent upon the ability of the state to access public
 23 security markets to sell financing agreements.

24 (12) No later than January 1 of each odd-numbered year, the Department of Corrections shall:

25 (a) Evaluate the community corrections policy established in ORS 423.475, 423.478, 423.483 and
 26 423.500 to 423.560; and

27 (b) Assess the effectiveness of local revocation options.

28 (13) As used in this section, [*“designated drug-related misdemeanor” and*] “designated person
 29 misdemeanor” [*have the meanings given those terms*] **has the meaning given that term** in ORS
 30 423.478.

31 **SECTION 24.** ORS 430.383 is amended to read:

32 430.383. (1)(a) The people of Oregon find that drug addiction and overdoses are a serious prob-
 33 lem in Oregon and that Oregon needs to expand access to drug treatment.

34 (b) The people of Oregon further find that a health-based approach to addiction and overdose is
 35 [*more*] effective, humane and cost-effective [*than criminal punishments. Making people criminals be-*
 36 *cause they suffer from addiction is expensive, ruins lives and can make access to treatment and recov-*
 37 *ery more difficult*].

38 (2)(a) The purpose of the Drug Addiction Treatment and Recovery Act of 2020, **as further**
 39 **amended**, is to make screening, health assessment, treatment and recovery services for drug ad-
 40 diction available to all those who need and want access to those services and to [*adopt a health*
 41 *approach*] **enhance health assessment, treatment and recovery services to address** drug ad-
 42 diction [*by removing criminal penalties for low-level drug possession*].

43 (b) It is the policy of the State of Oregon that screening, health assessment, treatment and re-
 44 covery services for drug addiction are available to all those who need and want access to those
 45 services.

1 (3) The provisions of chapter 2, Oregon Laws 2021, **as amended**, shall be interpreted consist-
 2 ently with the findings, purposes and policy objectives stated in this section [*and shall not be limited*
 3 *by any policy set forth in Oregon law that could conflict with or be interpreted to conflict with the*
 4 *purposes and policy objectives stated in this section*].

5 **SECTION 25.** ORS 430.384 is amended to read:

6 430.384. (1) The Drug Treatment and Recovery Services Fund is established in the State Treas-
 7 ury, separate and distinct from the General Fund. Interest earned by the Drug Treatment and Re-
 8 covery Services Fund shall be credited to the fund.

9 (2) The Drug Treatment and Recovery Services Fund shall consist of:

10 [(a) Moneys deposited into the fund pursuant to ORS 305.231;]

11 [(b)] (a) Moneys appropriated or otherwise transferred to the fund by the Legislative Assembly;

12 [(c)] (b) Moneys allocated from the Oregon Marijuana Account, pursuant to ORS 475C.726 (3)(b);

13 **and**

14 [(d) Moneys allocated from the Criminal Fine Account pursuant to ORS 137.300 (4); and]

15 [(e)] (c) All other moneys deposited into the fund from any source.

16 (3) Moneys in the fund shall be continuously appropriated to the Oregon Health Authority for
 17 the purposes set forth in ORS 430.389.

18 (4)(a) Pursuant to subsection [(2)(b)] **(2)(a)** of this section, the Legislative Assembly shall ap-
 19 propriate or transfer to the fund an amount sufficient to fully fund the grants program required by
 20 ORS 430.389.

21 (b) The total amount deposited and transferred into the fund shall not be less than \$57 million
 22 for the first year chapter 2, Oregon Laws 2021, is in effect.

23 (c) In each subsequent year, the minimum transfer amount set forth in paragraph (b) of this
 24 subsection shall be increased by not less than the sum of:

25 (A) \$57 million multiplied by the percentage, if any, by which the monthly averaged U.S. City
 26 Average Consumer Price Index for the 12 consecutive months ending August 31 of the prior calendar
 27 year exceeds the monthly index for the fourth quarter of the calendar year 2020; and

28 (B) The annual increase, if any, in moneys distributed pursuant to ORS 475C.726 (3)(b).

29 **SECTION 26.** ORS 430.388 is amended to read:

30 430.388. (1)(a) The Director of the Oregon Health Authority shall establish an Oversight and
 31 Accountability Council for the purpose of determining how funds will be distributed to grant appli-
 32 cants and to oversee the implementation of the Behavioral Health Resource Networks pursuant to
 33 ORS 430.389. The council shall be formed on or before February 1, 2021.

34 (b) The council shall consist of qualified individuals with experience in substance use disorder
 35 treatment and other addiction services. The council shall consist of at least one member from each
 36 of the following categories only:

37 (A) A representative of the Oregon Health Authority, Health Systems Division Behavioral
 38 Health Services as a nonvoting member;

39 (B) Three members of communities that have been disproportionately impacted by arrests,
 40 prosecution or sentencing for [*conduct that has been classified or reclassified as a Class E violation*]
 41 **unlawful possession of a controlled substance offenses;**

42 (C) A physician specializing in addiction medicine;

43 (D) A licensed clinical social worker;

44 (E) An evidence-based substance use disorder provider;

45 (F) A harm reduction services provider;

1 (G) A person specializing in housing services for people with substance use disorder or a diag-
 2 nosed mental health condition;

3 (H) An academic researcher specializing in drug use or drug policy;

4 (I) At least two people who suffered or suffer from substance use disorder;

5 (J) At least two recovery peers;

6 (K) A mental or behavioral health care provider;

7 (L) A representative of a coordinated care organization;

8 (M) A person who works for a nonprofit organization that advocates for persons who experience
 9 or have experienced substance use disorder; and

10 (N) The Director of the Alcohol and Drug Policy Commission or the director's designated staff
 11 person, as a nonvoting member.

12 (2) A quorum consists of two-thirds of the members of the council, rounded up to the next odd
 13 number of members.

14 (3) The term of office for a member of the council is four years. Vacancies shall be appointed
 15 for the unexpired term.

16 (4)(a) To the extent permissible by law, a member of the council performing services for the
 17 council may receive compensation from the member's employer for time spent performing services
 18 as a council member.

19 (b) If a member of the council is not compensated by the member's employer as set forth in
 20 paragraph (a) of this subsection, that member shall be entitled to compensation and expenses as
 21 provided in ORS 292.495.

22 (5) Members of the council are subject to and must comply with the provisions of ORS chapter
 23 244, including ORS 244.045 (4), 244.047, 244.120 and 244.130.

24 **SECTION 27.** ORS 430.389 is amended to read:

25 430.389. (1) The Oversight and Accountability Council shall oversee and approve grants and
 26 funding to implement Behavioral Health Resource Networks and increase access to community care,
 27 as set forth below. A Behavioral Health Resource Network is an entity or collection of entities that
 28 individually or jointly provide some or all of the services described in subsection (2)(d) of this sec-
 29 tion.

30 (2)(a) The Oversight and Accountability Council, in consultation with the Oregon Health Au-
 31 thority, shall provide grants and funding to agencies or organizations, whether government or com-
 32 munity based, to establish Behavioral Health Resource Networks for the purposes of immediately
 33 screening the acute needs of people who use drugs and assessing and addressing any ongoing needs
 34 through ongoing case management, harm reduction, treatment, housing and linkage to other care
 35 and services. Recipients of grants or funding to provide substance use disorder treatment or ser-
 36 vices must be licensed, certified or credentialed by the state, including certification under ORS
 37 743A.168 (8), or meet criteria prescribed by rule by the Oversight and Accountability Council under
 38 ORS 430.390. A recipient of a grant or funding under this subsection may not use the grant or
 39 funding to supplant the recipient's existing funding.

40 (b) The council and the authority shall ensure that residents of each county have access to all
 41 of the services described in paragraph (d) of this subsection.

42 (c) Applicants for grants and funding may apply individually or jointly with other network par-
 43 ticipants to provide services in one or more counties.

44 (d) A network must have the capacity to provide the following services and any other services
 45 specified by the council by rule:

1 (A) Screening by certified addiction peer support or wellness specialists or other qualified per-
2 sons designated by the council to determine a client's need for immediate medical or other treatment
3 to determine what acute care is needed and where it can be best provided, identify other needs and
4 link the client to other appropriate local or statewide services, including treatment for substance
5 abuse and coexisting health problems, housing, employment, training and child care. Networks shall
6 provide this service 24 hours a day, seven days a week, every calendar day of the year.
7 Notwithstanding paragraph (b) of this subsection, only one grantee in each network within each
8 county is required to provide the screenings described in this subparagraph.

9 (B) Comprehensive behavioral health needs assessment, including a substance use disorder
10 screening by a certified alcohol and drug counselor or other credentialed addiction treatment pro-
11 fessional. The assessment shall prioritize the self-identified needs of a client.

12 (C) Individual intervention planning, case management and connection to services. If, after the
13 completion of a screening, a client indicates a desire to address some or all of the identified needs,
14 a case manager shall work with the client to design an individual intervention plan. The plan must
15 address the client's need for substance use disorder treatment, coexisting health problems, housing,
16 employment and training, child care and other services.

17 (D) Ongoing peer counseling and support from screening and assessment through implementation
18 of individual intervention plans as well as peer outreach workers to engage directly with
19 marginalized community members who could potentially benefit from the network's services.

20 (E) Assessment of the need for, and provision of, mobile or virtual outreach services to:

21 (i) Reach clients who are unable to access the network; and

22 (ii) Increase public awareness of network services.

23 (F) Harm reduction services and information and education about harm reduction services.

24 (G) Low-barrier substance use disorder treatment.

25 (H) Transitional and supportive housing for individuals with substance use disorders.

26 (e) If an applicant for a grant or funding under this subsection is unable to provide all of the
27 services described in paragraph (d) of this subsection, the applicant may identify how the applicant
28 intends to partner with other entities to provide the services, and the Oregon Health Authority and
29 the council may facilitate collaboration among applicants.

30 (f) All services provided through the networks must be evidence-informed, trauma-informed,
31 culturally specific, linguistically responsive, person-centered and nonjudgmental. The goal shall be
32 to address effectively the client's substance use and any other social determinants of health.

33 (g) The networks must be adequately staffed to address the needs of people with substance use
34 disorders within their regions as prescribed by the council by rule, including, at a minimum, at least
35 one person qualified by the Oregon Health Authority in each of the following categories:

36 (A) Certified alcohol and drug counselor or other credentialed addiction treatment professional;

37 (B) Case manager; and

38 (C) Certified addiction peer support or wellness specialist.

39 (h) Verification of a screening by a certified addiction peer support specialist, wellness specialist
40 or other person in accordance with subsection (2)(d)(A) of this section shall promptly be provided
41 to the client by the entity conducting the screening. If the client executes a valid release of infor-
42 mation, the entity shall provide verification of the screening to the Oregon Health Authority or a
43 contractor of the authority [*and the authority or the authority's contractor shall forward the verifi-*
44 *cation to the court, in the manner prescribed by the Chief Justice of the Supreme Court, to satisfy the*
45 *conditions for dismissal under ORS 153.062 or 475.237*].

1 (3)(a) If moneys remain in the Drug Treatment and Recovery Services Fund after the council
 2 has committed grants and funding to establish behavioral health resource networks serving every
 3 county in this state, the council shall provide grants and funding to other agencies or organizations,
 4 whether government or community based, and to the nine federally recognized tribes in this state
 5 and service providers that are affiliated with the nine federally recognized tribes in this state to
 6 increase access to one or more of the following:

7 (A) Low-barrier substance use disorder treatment that is evidence-informed, trauma-informed,
 8 culturally specific, linguistically responsive, person-centered and nonjudgmental;

9 (B) Peer support and recovery services;

10 (C) Transitional, supportive and permanent housing for persons with substance use disorder;

11 (D) Harm reduction interventions including, but not limited to, overdose prevention education,
 12 access to naloxone hydrochloride and sterile syringes and stimulant-specific drug education and
 13 outreach; or

14 (E) Incentives and supports to expand the behavioral health workforce to support the services
 15 delivered by behavioral health resource networks and entities receiving grants or funding under this
 16 subsection.

17 (b) A recipient of a grant or funding under this subsection may not use the grant or funding to
 18 supplant the recipient's existing funding.

19 (4) In awarding grants and funding under subsections (2) and (3) of this section, the council
 20 shall:

21 (a) Distribute grants and funding to ensure access to:

22 (A) Historically underserved populations; and

23 (B) Culturally specific and linguistically responsive services.

24 (b) Consider any inventories or surveys of currently available behavioral health services.

25 (c) Consider available regional data related to the substance use disorder treatment needs and
 26 the access to culturally specific and linguistically responsive services in communities in this state.

27 (d) Consider the needs of residents of this state for services, supports and treatment at all ages.

28 (5) The council shall require any government entity that applies for a grant to specify in the
 29 application details regarding subgrantees and how the government entity will fund culturally spe-
 30 cific organizations and culturally specific services. A government entity receiving a grant must
 31 make an explicit commitment not to supplant or decrease any existing funding used to provide ser-
 32 vices funded by the grant.

33 (6) In determining grants and funding to be awarded, the council may consult the comprehensive
 34 addiction, prevention, treatment and recovery plan established by the Alcohol and Drug Policy
 35 Commission under ORS 430.223 and the advice of any other group, agency, organization or individual
 36 that desires to provide advice to the council that is consistent with the terms of this section.

37 (7) Services provided by grantees, including services provided by a Behavioral Health Resource
 38 Network, shall be free of charge to the clients receiving the services. Grantees in each network
 39 shall seek reimbursement from insurance issuers, the medical assistance program or any other third
 40 party responsible for the cost of services provided to a client and grants and funding provided by
 41 the council or the authority under subsection (2) of this section may be used for copayments,
 42 deductibles or other out-of-pocket costs incurred by the client for the services.

43 (8) Subsection (7) of this section does not require the medical assistance program to reimburse
 44 the cost of services for which another third party is responsible in violation of 42 U.S.C. 1396a(25).

45 **SECTION 28.** ORS 430.392 is amended to read:

1 430.392. (1) The Division of Audits of the office of the Secretary of State shall conduct per-
2 formance audits and financial reviews as provided in this section, regarding the uses of the Drug
3 Treatment and Recovery Services Fund and the effectiveness of the fund in achieving the purposes
4 of the fund and the policy objectives of ORS 430.383. Recipients of grants or funds under ORS
5 430.389 shall keep accurate books, records and accounts that are subject to inspection and audit by
6 the division.

7 (2) No later than two years after the completion of an audit or financial review, the division
8 shall monitor and report on the progress in implementing any recommendations made in the audit
9 or financial review. The division shall follow up on recommendations as part of recurring audit work
10 or as an activity separate from other audit activity. When following up on recommendations, the
11 division may request from the appropriate agency evidence of implementation.

12 (3) The audits set forth in this section shall be conducted pursuant to the provisions of ORS
13 chapter 297, except to the extent any provision of ORS chapter 297 conflicts with any provision of
14 ORS [293.665 and 305.231 and] 430.383 to 430.390, in which case the provisions of ORS [293.665 and
15 305.231 and] 430.383 to 430.390 shall control.

16 (4) No later than December 31, 2023, the division shall perform a:

17 (a) Real-time audit, as prescribed by the division, which shall include an assessment of the re-
18 lationship between the Oversight and Accountability Council and the Oregon Health Authority, the
19 relationship between the council and recipients of grants or funding and the structural integrity of
20 ORS [293.665 and 305.231 and] 430.383 to 430.390, including but not limited to assessing:

21 (A) Whether the organizational structure of the council contains conflicts or problems.

22 (B) Whether the rules adopted by the council are clear and functioning properly.

23 (C) Whether the council has sufficient authority and independence to achieve the council's
24 mission.

25 (D) Whether the authority is fulfilling the authority's duties under ORS 430.384, 430.387, 430.388,
26 430.390 and 430.391.

27 (E) Whether there are conflicts of interest in the process of awarding grants or funding.

28 (F) Whether there are opportunities to expand collaboration between the council and state
29 agencies.

30 (G) Whether barriers exist in data collection and evaluation mechanisms.

31 (H) Who is providing the data.

32 (I) Other areas identified by the division.

33 (b) Financial review, which shall include an assessment of the following:

34 (A) The functioning of the grants and funding systems between the council, the authority and
35 recipients of grants or funding, including by gathering information on who is receiving what grants
36 and funding, the process of applying for the grants and funding and whether that process is condu-
37 cive to obtaining qualified applicants and applicants from communities of color.

38 (B) Whether grants and funding are going to organizations that are culturally responsive and
39 linguistically specific, including an assessment of:

40 (i) The barriers that exist for grant and funding applicants who are Black, Indigenous or People
41 of Color.

42 (ii) The applicants that were denied and why.

43 (iii) Whether grants and other funding are being disbursed based on the priorities specified in
44 ORS 430.389.

45 (iv) For government entities receiving grants or funding under ORS 430.389, the government

1 entities' subgrantees and whether the governmental entity supplanted or decreased any local funding
 2 dedicated to the same services after receiving grants or funds under ORS 430.389.

3 (v) Whether the authority has stayed within its administrative spending cap.

4 (vi) What proportion of grants or funds received by grantees and others under ORS 430.389, was
 5 devoted to administrative costs.

6 (C) The organizations and agencies receiving grants or funding under ORS 430.389 and:

7 (i) Which of the organizations and agencies are Behavioral Health Resource Network entities.

8 (ii) The amount each organization and agency received.

9 (iii) The total number of organizations and agencies that applied for grants or funding.

10 (iv) The amount of moneys from the fund that were used to administer the programs selected
 11 by the council.

12 (v) The moneys that remained in the Drug Treatment and Recovery Services Fund after grants
 13 and funding were disbursed.

14 (vi) A performance assessment of each grant or funding recipient.

15 (D) Other areas identified by the division.

16 (5) No later than December 31, 2024, the division shall conduct a performance audit, which must
 17 include an assessment of the following:

18 (a) All relevant data regarding the implementation of ORS [153.062 and] 430.391[, *including de-*
 19 *mographic information on individuals who receive citations subject to ORS 153.062 and 430.391 and*
 20 *whether the citations resulted in connecting the individuals with treatment*].

21 (b) The functioning of:

22 [(A) *Law enforcement and the courts in relation to Class E violation citations;*]

23 [(B)] (A) The telephone hotline operated by the authority; and

24 [(C)] (B) Entities providing verification of screenings under ORS 430.389.

25 (c) Disparities shown by demographic data and whether the citation data reveals a dispropor-
 26 tionate use of citations in communities most impacted by the war on drugs.

27 (d) Whether ORS [153.062,] 430.389 and 430.391 reduce the involvement in the criminal justice
 28 system of individuals with substance use disorder.

29 (e) Outcomes for individuals receiving treatment and other social services under ORS 430.389,
 30 including, but not limited to, the following:

31 (A) Whether access to care increased since December 3, 2020, and, if data is available, whether,
 32 since December 3, 2020:

33 (i) The number of drug and alcohol treatment service providers increased.

34 (ii) The number of culturally specific providers increased.

35 (iii) Overdose rates have decreased.

36 (iv) Access to harm reduction services has increased.

37 (v) More individuals are accessing treatment than they were before December 3, 2020.

38 (vi) Access to housing for individuals with substance use disorder has increased.

39 (B) Data on Behavioral Health Resource Networks and recipients of grants and funding under
 40 ORS 430.389, including:

41 (i) The outcomes of each network or recipient, including but not limited to the number of clients
 42 with substance use disorder receiving services from each network or recipient, the average duration
 43 of client participation and client outcomes.

44 (ii) The number of individuals seeking assistance from the network or recipients who are denied
 45 or not connected to substance use disorder treatment and other services, and the reasons for the

1 denials.

2 (iii) The average time it takes for clients to access services and fulfill their individual inter-
 3 vention plan and the reason for any delays, such as waiting lists at referred services.

4 (iv) Whether average times to access services to which clients are referred, such as housing or
 5 medically assisted treatment, have decreased over time since December 3, 2020.

6 (v) Demographic data on clients served by Behavioral Health Resource Networks, including
 7 self-reported demographic data on race, ethnicity, gender and age.

8 (6) After the initial audit and financial review under subsection (4) of this section, the division
 9 shall conduct periodic performance audits and financial reviews pursuant to the division’s annual
 10 audit plan and taking into consideration the risks of the program.

11 **SECTION 29.** ORS 475.005 is amended to read:

12 475.005. As used in ORS 475.005 to 475.285 and 475.752 to 475.980, unless the context requires
 13 otherwise:

14 (1) “Abuse” means the repetitive excessive use of a drug short of dependence, without legal or
 15 medical supervision, which may have a detrimental effect on the individual or society.

16 (2) “Administer” means the direct application of a controlled substance, whether by injection,
 17 inhalation, ingestion or any other means, to the body of a patient or research subject by:

18 (a) A practitioner or an authorized agent thereof; or

19 (b) The patient or research subject at the direction of the practitioner.

20 (3) “Administration” means the Drug Enforcement Administration of the United States Depart-
 21 ment of Justice, or its successor agency.

22 (4) “Agent” means an authorized person who acts on behalf of or at the direction of a man-
 23 ufacturer, distributor or dispenser. It does not include a common or contract carrier, public
 24 warehouseman or employee of the carrier or warehouseman.

25 (5) “Board” means the State Board of Pharmacy.

26 (6) “Controlled substance”:

27 (a) Means a drug or its immediate precursor classified in Schedules I through V under the fed-
 28 eral Controlled Substances Act, 21 U.S.C. 811 to 812, as modified under ORS 475.035. The use of the
 29 term “precursor” in this paragraph does not control and is not controlled by the use of the term
 30 “precursor” in ORS 475.752 to 475.980.

31 (b) Does not include:

32 (A) The plant Cannabis family Cannabaceae;

33 (B) Any part of the plant Cannabis family Cannabaceae, whether growing or not;

34 (C) Resin extracted from any part of the plant Cannabis family Cannabaceae;

35 (D) The seeds of the plant Cannabis family Cannabaceae;

36 (E) Any compound, manufacture, salt, derivative, mixture or preparation of a plant, part of a
 37 plant, resin or seed described in this paragraph; or

38 (F) Psilocybin or psilocin, but only if and to the extent that a person manufactures, delivers[,]
 39 or possesses psilocybin, psilocin[,] or psilocybin products in accordance with the provisions of ORS
 40 475A.210 to 475A.722 and rules adopted under ORS 475A.210 to 475A.722.

41 (7) “Counterfeit substance” means a controlled substance or its container or labeling, which,
 42 without authorization, bears the trademark, trade name, or other identifying mark, imprint, number
 43 or device, or any likeness thereof, of a manufacturer, distributor or dispenser other than the person
 44 who in fact manufactured, delivered or dispensed the substance.

45 (8) “Deliver” or “delivery” means the actual, constructive or attempted transfer, other than by

1 administering or dispensing, from one person to another of a controlled substance, whether or not
2 there is an agency relationship.

3 (9) "Device" means instruments, apparatus or contrivances, including their components, parts
4 or accessories, intended:

5 (a) For use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans or
6 animals; or

7 (b) To affect the structure of any function of the body of humans or animals.

8 (10) "Dispense" means to deliver a controlled substance to an ultimate user or research subject
9 by or pursuant to the lawful order of a practitioner, and includes the prescribing, administering,
10 packaging, labeling or compounding necessary to prepare the substance for that delivery.

11 (11) "Dispenser" means a practitioner who dispenses.

12 (12) "Distributor" means a person who delivers.

13 (13) "Drug" means:

14 (a) Substances recognized as drugs in the official United States Pharmacopoeia, official
15 Homeopathic Pharmacopoeia of the United States or official National Formulary, or any supplement
16 to any of them;

17 (b) Substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of
18 disease in humans or animals;

19 (c) Substances (other than food) intended to affect the structure or any function of the body of
20 humans or animals; and

21 (d) Substances intended for use as a component of any article specified in paragraph (a), (b) or
22 (c) of this subsection; however, the term does not include devices or their components, parts or ac-
23 cessories.

24 (14) "Electronically transmitted" or "electronic transmission" means a communication sent or
25 received through technological apparatuses, including computer terminals or other equipment or
26 mechanisms linked by telephone or microwave relays, or any similar apparatus having electrical,
27 digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

28 (15) "Manufacture" means the production, preparation, propagation, compounding, conversion
29 or processing of a controlled substance, either directly or indirectly by extraction from substances
30 of natural origin, or independently by means of chemical synthesis, or by a combination of extraction
31 and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or
32 relabeling of its container, except that this term does not include the preparation or compounding
33 of a controlled substance:

34 (a) By a practitioner as an incident to administering or dispensing of a controlled substance in
35 the course of professional practice; or

36 (b) By a practitioner, or by an authorized agent under the practitioner's supervision, for the
37 purpose of, or as an incident to, research, teaching or chemical analysis and not for sale.

38 (16) "Person" includes a government subdivision or agency, business trust, estate, trust or any
39 other legal entity.

40 (17) "Practitioner" means physician, dentist, veterinarian, scientific investigator, licensed nurse
41 practitioner, physician assistant or other person licensed, registered or otherwise permitted by law
42 to dispense, conduct research with respect to or to administer a controlled substance in the course
43 of professional practice or research in this state but does not include a pharmacist or a pharmacy.

44 (18) "Prescription" means a written, oral or electronically transmitted direction, given by a
45 practitioner for the preparation and use of a drug. When the context requires, "prescription" also

1 means the drug prepared under such written, oral or electronically transmitted direction. Any label
2 affixed to a drug prepared under written, oral or electronically transmitted direction shall promi-
3 nently display a warning that the removal thereof is prohibited by law.

4 (19) "Production" includes the manufacture, planting, cultivation, growing or harvesting of a
5 controlled substance.

6 (20) "Research" means an activity conducted by the person registered with the federal Drug
7 Enforcement Administration pursuant to a protocol approved by the United States Food and Drug
8 Administration.

9 (21) "Ultimate user" means a person who lawfully possesses a controlled substance for the use
10 of the person or for the use of a member of the household of the person or for administering to an
11 animal owned by the person or by a member of the household of the person.

12 [(22) "Usable quantity" means:]

13 [(a) An amount of a controlled substance that is sufficient to physically weigh independent of its
14 packaging and that does not fall below the uncertainty of the measuring scale; or]

15 [(b) An amount of a controlled substance that has not been deemed unweighable, as determined by
16 a Department of State Police forensic laboratory, due to the circumstances of the controlled
17 substance.]

18 [(23)] (22) "Within 1,000 feet" means a straight line measurement in a radius extending for 1,000
19 feet or less in every direction from a specified location or from any point on the boundary line of
20 a specified unit of property.

21 **SECTION 30.** ORS 475.235 is amended to read:

22 475.235. (1) It is not necessary for the state to negate any exemption or exception in ORS
23 475.005 to 475.285 and 475.752 to 475.980 in any complaint, information, indictment or other pleading
24 or in any trial, hearing or other proceeding under ORS 475.005 to 475.285 and 475.752 to 475.980.
25 The burden of proof of any exemption or exception is upon the person claiming it.

26 (2) In the absence of proof that a person is the duly authorized holder of an appropriate regis-
27 tration or order form issued under ORS 475.005 to 475.285 and 475.752 to 475.980, the person is
28 presumed not to be the holder of the registration or form. The burden of proof is upon the person
29 to rebut the presumption.

30 (3)(a) When a controlled substance is at issue in a criminal proceeding before a grand jury, at
31 a preliminary hearing, in a proceeding on a district attorney's information[, *during a proceeding on*
32 *a Class E violation*] or for purposes of an early disposition program, it is prima facie evidence of the
33 identity of the controlled substance if:

34 (A) A sample of the controlled substance is tested using a presumptive test for controlled sub-
35 stances;

36 (B) The test is conducted by a law enforcement officer trained to use the test or by a forensic
37 scientist; and

38 (C) The test is positive for the particular controlled substance.

39 (b) When the identity of a controlled substance is established using a presumptive test for pur-
40 poses of a criminal proceeding before a grand jury, a preliminary hearing, a proceeding on a district
41 attorney's information or an early disposition program, the defendant, upon notice to the district
42 attorney, may request that the controlled substance be sent to a state police forensic laboratory for
43 analysis. [*The defendant may not make a request under this paragraph concerning a controlled sub-*
44 *stance at issue in a proceeding on a Class E violation.*]

45 (4) Notwithstanding any other provision of law, in all prosecutions in which an analysis of a

1 controlled substance or sample was conducted, a certified copy of the analytical report signed by
 2 the director of a state police forensic laboratory or the analyst or forensic scientist conducting the
 3 analysis shall be admitted as prima facie evidence of the results of the analytical findings unless the
 4 defendant has provided notice of an objection in accordance with subsection (5) of this section.

5 (5) If the defendant intends to object at trial to the admission of a certified copy of an analytical
 6 report as provided in subsection (4) of this section, not less than 15 days prior to trial the defendant
 7 shall file written notice of the objection with the court and serve a copy on the district attorney.

8 (6) As used in this section:

9 (a) "Analyst" means a person employed by the Department of State Police to conduct analysis
 10 in forensic laboratories established by the department under ORS 181A.150.

11 (b) "Presumptive test" includes, but is not limited to, chemical tests using Marquis reagent,
 12 Duquenois-Levine reagent, Scott reagent system or modified Chen's reagent.

13 **SECTION 31.** ORS 670.280 is amended to read:

14 670.280. (1) As used in this section:

15 (a) "License" includes a registration, certification or permit.

16 (b) "Licensee" includes a registrant or a holder of a certification or permit.

17 (2) Except as provided in ORS 342.143 (3) or 342.175 (3), a licensing board, commission or agency
 18 may not deny, suspend or revoke an occupational or professional license solely for the reason that
 19 the applicant or licensee has been convicted of a crime, but it may consider the relationship of the
 20 facts which support the conviction and all intervening circumstances to the specific occupational
 21 or professional standards in determining the fitness of the person to receive or hold the license.
 22 *[There is a rebuttable presumption as to each individual applicant or licensee that an existing or prior*
 23 *conviction for conduct that has been classified or reclassified as a Class E violation does not make an*
 24 *applicant for an occupational or professional license or a licensee with an occupational or professional*
 25 *license unfit to receive or hold the license.]*

26 (3) Except as provided in ORS 342.143 (3) and 342.175 (3), a licensing board, commission or
 27 agency may deny an occupational or professional license or impose discipline on a licensee based
 28 on conduct that is not undertaken directly in the course of the licensed activity, but that is sub-
 29 stantially related to the fitness and ability of the applicant or licensee to engage in the activity for
 30 which the license is required. In determining whether the conduct is substantially related to the
 31 fitness and ability of the applicant or licensee to engage in the activity for which the license is re-
 32 quired, the licensing board, commission or agency shall consider the relationship of the facts with
 33 respect to the conduct and all intervening circumstances to the specific occupational or professional
 34 standards. *[There is a rebuttable presumption as to each individual applicant or licensee that an ex-*
 35 *isting or prior conviction for conduct that has been classified or reclassified as a Class E violation is*
 36 *not related to the fitness and ability of the applicant or licensee to engage in the activity for which the*
 37 *license is required.]*

38
 39 **REPEALS**

40
 41 **SECTION 32.** (1) **Section 30, chapter 591, Oregon Laws 2021, is repealed.**

42 **(2) ORS 153.043, 153.062, 293.665, 305.231, 419C.460, and 475.237 are repealed.**

43
 44 **APPLICABILITY**

